

## MATERNITY POLICY

Author: Natalie Durk	Review group: Partnership Policy Review Group
Review date: As regulations are updated	Last update: November 2007
Approved:	Issue No: Version 2.2

**Uncontrolled when printed**

## Contents



<b>1.</b>	<b>INTRODUCTION</b>	<b>1</b>
<b>2.</b>	<b>MATERNITY LEAVE</b>	<b>2</b>
2.1	Notice of commencement of Maternity Leave	2
2.2	Commencing Maternity Leave	3
2.3	Where confinement falls before commencement of Maternity Leave	3
2.4	Compulsory Maternity Leave	3
<b>3.</b>	<b>DURING YOUR PREGNANCY</b>	<b>4</b>
3.1	Ante-natal care	4
3.2	Alternative employment during pregnancy	4
3.3	Risk Assessment	4
3.4	Annual Leave	5
3.5	Sickness during pregnancy	5
3.6	Fixed Term or Training Contracts	5
3.7	Bank and Sessional Contracts	5
<b>4.</b>	<b>KEEPING IN TOUCH</b>	<b>6</b>
<b>5.</b>	<b>MATERNITY LEAVE ENTITLEMENT</b>	<b>7</b>
5.1	Statutory Maternity Pay (SMP)	8
5.2	National Health Service Maternity Pay (OMP)	9
	Flowchart of Entitlements	10
5.3	Deferring Payments	11
5.4	Calculation of Pay	11
5.5	Payment Arrangements	12
5.6	Superannuation	12
5.7	Redundancy	12
5.8	Still Birth	12
<b>6.</b>	<b>RETURNING TO WORK</b>	<b>13</b>
6.1	Notice of returning to work	13
6.2	Hours on returning to work	13
6.3	Breastfeeding	13
6.4	Post-Natal Health Care	14
6.5	Annual Leave	14
6.6	Sick Pay	14
6.7	Failure to return to work	14
6.8	Leaving NHS 24	15
<b>Appendix A</b>	Glossary	16
<b>Appendix B</b>	Application for Maternity Leave	17

## 1. INTRODUCTION

Congratulations! Having a baby is a very exciting time for you and one of the most happy events in your life. However, it is also a time when you need guidance and advice on what happens next and the benefits you can receive. We want you to be healthy during your pregnancy and to ensure that you know your NHS and statutory rights and entitlements during your pregnancy.

This booklet guides you through your maternity leave and maternity pay and explains the steps you need to take at different stages during your pregnancy and after the birth of your baby. We hope that you find all the answers you need, but if at anytime you have any queries, please contact the HR Services Team.

The policy of NHS 24 is to comply with the legislation relating to maternity leave and pay and the Agenda for Change terms and conditions of service, and to apply these fairly and consistently throughout NHS 24.

## 2. MATERNITY LEAVE

Irrespective of your length of service and hours worked, you are entitled to 52 weeks maternity leave. The first 26 weeks are called **Ordinary Maternity Leave** (OML). The second 26 weeks are known as additional Maternity Leave. OML and part of AML may be paid or unpaid, please refer to section 5 for calculating your Maternity Pay entitlement

### 2.1 Notice of Commencement of Maternity Leave

You must inform your manager that you are pregnant by the 15<sup>th</sup> week before your expected week of confinement and state your intended date for commencing maternity leave. You should also provide your Human Resources department with your MAT B1 certificate from a registered practitioner or registered midwife. You can change your mind about your intended date for commencing maternity leave provided you give the Human Resources Department 28 days notice in writing of this

This certificate formally confirms your date of childbirth. The **original** certificate, signed by your GP or registered midwife, must be submitted to your Human Resource Department at least 28 days prior to commencement of your maternity leave. Please note that this certificate will not be available until the beginning of the 20th week prior to your expected week of confinement (the 21st week of pregnancy).

## **2.2 Commencing Maternity Leave**

The earliest you can start your Ordinary Maternity Leave (OML) is the beginning of the 11<sup>th</sup> week before the Expected Week of Childbirth (EWC).

The actual start of your OML will be one of the following:

- 1) the intended start date notified to your Manager or Human Resource Department; or
- 2) the first day after the beginning of the 4<sup>th</sup> week before the EWC where you are absent from work wholly or partly because of pregnancy; or
- 3) the day of childbirth.

In the case of 2) and 3) above, you must notify us as soon as possible, and in writing, that your absence is wholly or partly because of pregnancy, or that you have given birth.

If you are planning to work past the 30<sup>th</sup> week of pregnancy (the end of the 11<sup>th</sup> week prior to your expected week of childbirth), it is recommended that you check with your GP, or other practitioner looking after your pregnancy, that you are fit to continue working in your normal job. This is very important for you and your baby's health.

## **2.3 Where confinement falls before commencement of Maternity Leave**

Maternity leave will commence from the actual day of childbirth.

The NHS maternity leave can be split, taking a short period of leave immediately after confinement, with the balance following on the child's discharge from hospital if this is appropriate. This may, however, affect SMP due, and your Human Resources Department should be contacted for advice on this.

## **2.4 Compulsory Maternity Leave**

There is a compulsory period of maternity leave for two weeks from the date of childbirth. It is an offence for you employer to allow you to work during this period. Where a woman has exhausted her maternity leave period because the baby has arrived later than expected, her entitlement will be extended to cover these two weeks.

## **2. DURING YOUR PREGNANCY**

### **2.1 Ante-natal care**

You are entitled to paid time off to attend ante-natal appointments and classes which are advised by your midwife or medical practitioner

We do expect that you will attempt to organise times around work hours or, when this is not possible, at a time most convenient with your line manager; and that you show an appointment card when requesting time off for your second appointment onwards.

### **2.2 Alternative Employment during Pregnancy**

In the event that your General Practitioner has certified that you are incapable of carrying out your duties, or if you or the unborn baby are at risk, but you are not advised to refrain from work, you are entitled to be offered alternative employment where available, or to be medically suspended until you are fit to resume the duties of your post. You will continue to receive the pay you would have received in your substantive post within NHS 24

### **2.3 Risk Assessment**

As part of the general risk assessment process, NHS 24 is required to conduct a risk assessment of the work which new, expectant or breastfeeding mothers carry out, and of any substances to which they are exposed.

Your line manager will carry out pregnant workers risk assessment for you and you will also be required to complete a pregnant workers risk assessment screening form issued by Occupational Health.

Any risk to the mother or baby which is identified must be eliminated, or her hours of work or conditions changed so that she avoids the risk.

Similarly if you are a night worker and produce a medical certificate stating that this poses a threat to you or your baby's health and safety, you will, if possible be transferred to day work. If this is not possible, you will be transferred to paid suspension.

### **2.4 Annual Leave**

Wherever possible you should take all annual leave due to you before commencing maternity leave. The first 26 weeks of maternity leave, whether paid or unpaid, counts towards annual leave entitlement including public holidays.

However, staff who are not returning and who have 1 years service should count the first 6 weeks of SMP for annual leave purposes.

AML leave will accrue annual leave entitlement. This will be calculated in line with your contractual status, pro rata. Unpaid leave will be taken into account for long service entitlement to additional annual leave day(s).

You should discuss when you will take your annual leave with your manager prior to you commencing maternity leave. Please note the carrying forward of annual leave, up to 5 days, from one leave year to another will not be unreasonably refused in maternity leave situations in accordance with Agenda for Change Terms and Conditions.

#### **2.4 Sickness during pregnancy**

- (i) If you are absent due to ill health before the 4th week prior to the expected week of confinement, normal sick pay arrangements will apply.
- (ii) If you are absent due to ill health after the 4th week prior to the expected week of confinement and the illness is pregnancy related, you will automatically commence your maternity leave.
- (iii) If you are absent due to ill health after the 4th week prior to the expected week of confinement and the illness is certified as **not** pregnancy related, normal sick pay arrangements will apply.

#### **2.5 Fixed Term or Training Contracts**

*SMP provisions:* If you satisfy the qualifying conditions 26 weeks, SMP will be payable, even if your contract of employment ends at the start of your maternity leave or whilst SMP is being paid.

*NHS provisions:* If you are on a fixed term contract and satisfy the conditions governing eligibility for maternity leave, and your contract expires after the 11th week before the expected week of confinement and before six weeks after the expected week of confinement, then your contract will be extended to enable you to receive 26 weeks paid maternity leave.

For training purposes, where there is planned rotation of appointments you have the right to return to work in the next planned post with the same or another employing authority.

#### **2.6 Bank and Sessional Contracts**

If you work on the nurse bank or on a sessional contract, and are not entitled to occupational sick pay, you will not normally receive NHS maternity payments. You

may however be entitled to SMP on the basis of your average earnings. However, continuity can be broken by a break of as little as a day.

#### **4. KEEPING IN TOUCH**

During your maternity leave, it is good practice to keep in reasonable contact with your manager.

You should talk to your manager to agree what kind of contact you would like during your maternity leave e.g. how you will be told about changes happening at work etc.

In order to make coming back to work easier, keeping in touch days have been introduced where you may also return to work for up to 10 days during your maternity leave without losing your right to SMP.

These are optional days that you and manager can agree on, you are not obliged to do any work or attend any events during maternity leave nor can you be penalised for refusing to take up a keeping in touch day.

Keeping in touch days are not limited to your usual job – they can be used for training or other events or you may want to use them to ease your return to work.

You and your manager must both agree that you will work these days and agree the arrangements including what you will be doing and how you will be paid.

## **5. MATERNITY LEAVE ENTITLEMENT**

Irrespective of your length of service, you are entitled to a minimum of 26 weeks maternity leave (called ordinary maternity leave OML). During this period, all contractual terms and conditions, with the exception of pay, are preserved. In addition, you are also entitled to a further 26 weeks additional maternity leave (AML).

There are two kinds of maternity provisions. Statutory and National Health Service. These are explained in detail on the following pages.

Your maternity rights by law are:

1. 26 weeks Ordinary Maternity Leave regardless of length of service
2. A further 26 weeks Additional Maternity Leave (AML) regardless of length of service.
3. Protection from dismissal because of pregnancy
4. The right to return to work with your employer
5. The right to maternity pay

To ensure that you receive the appropriate benefits, you must first submit a completed "Application for Maternity Leave/Pay" form. (See Appendix B)

## 5.1 STATUTORY MATERNITY PAY

**Statutory Maternity Pay (SMP)** is a weekly benefit paid to women who are on maternity leave.

To qualify for SMP you must:

- Have 26 weeks continuous service at the end of the 15<sup>th</sup> week before the EWC (**WITH NHS 24**)

And

- Have average weekly earnings of not less than the lower earnings limit for the payment of National Insurance contributions which is in force during your qualifying week

And

- Still be pregnant at the 11<sup>th</sup> week before the expected week of confinement, or have had your baby by then.

If you are only entitled to SMP, you will receive

First 6 Weeks: the higher rate SMP which is 90% of full pay

Next 33 weeks: the lower rate of SMP or 90% of your earnings per week, whichever is less

Next 13 weeks: unpaid.

**NOTE: You must have 26 weeks service** (at the end of the 15<sup>th</sup> week before the EWC) **with NHS 24. Service with other NHS employers does not count towards SMP.**

Your normal weekly earnings are based on the gross average NIable weekly earnings (including overtime i.e. all income subject to tax and NI) received during the 8 weeks prior to the qualifying week. It is therefore important that you are aware that if for any reason your earnings during that period are down, this will affect your average earnings.

Due to this calculation, it is recommended that careful consideration should be given to the decision to work shorter hours, take unpaid leave, or sickness where sick pay is exhausted.

If you do not qualify for SMP, you may be entitled for Maternity Allowance from the Benefits Agency. For further details on this entitlement, contact your local Benefits Agency. However, you must still submit a copy of your MATB1 to Human Resources as you are still eligible for Maternity Leave.

## 5.2 NATIONAL HEALTH SERVICE MATERNITY PAY (OMP)

You must have continuous service of 12 months employment within the NHS, with one or more NHS employing authorities, at the beginning of the 11th week before the expected week of confinement. Continuity is normally broken by a break of more than three calendar months, although there are certain exceptions to this rule. E.g. Voluntary service overseas; employment on an honorary contract; absence on a retainer scheme and postgraduate medical training **and**

Still be employed with NHS 24 on a whole-time basis or part-time basis, at the 11<sup>th</sup> week before the expected week of confinement.

You are entitled to a maximum of 52 weeks maternity leave, 26 weeks of which will be paid.

National Health Service Maternity Pay Provisions:

First eight weeks: In effect you will receive full pay.

Next eighteen weeks: Half full pay, plus SMP **if you qualify**, up to the limit of full pay.

Any further weeks: Unpaid, up to a maximum of 26 weeks Additional Maternity Leave.

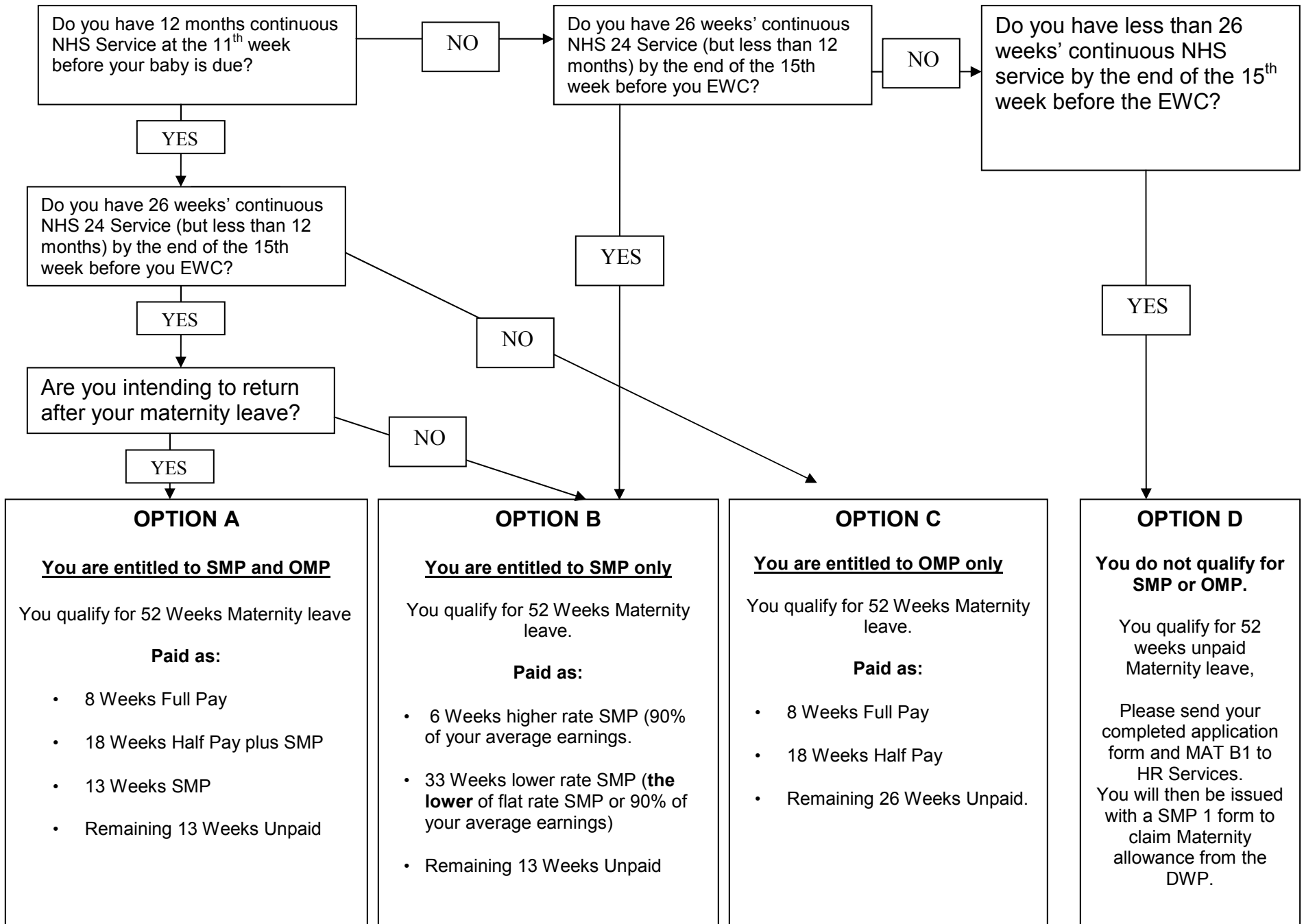
**If you qualify for SMP, you will continue to receive SMP up to week 39.**

**PLEASE NOTE: Entitlement to OMP does not automatically qualify you for SMP; you must have been employed with NHS 24 for 26 weeks** (at the end of the 15<sup>th</sup> week before the EWC) **to receive SMP in addition to OMP.**

You **must** submit a completed maternity leave application form by the end of the 15th week before the week your baby is due. (See Appendix B) In doing this you are stating your intention to return to work for this or another National Health Service employing authority at the end of your maternity leave, for a minimum period of three months.

If you fail to return to work you are liable to repay the whole of your National Health Service maternity pay but not the SMP.

## Flow Chart of Maternity Entitlements



### OPTION A

**You are entitled to SMP and OMP**

You qualify for 52 Weeks Maternity leave

**Paid as:**

- 8 Weeks Full Pay
- 18 Weeks Half Pay plus SMP
- 13 Weeks SMP
- Remaining 13 Weeks Unpaid

### OPTION B

**You are entitled to SMP only**

You qualify for 52 Weeks Maternity leave.

**Paid as:**

- 6 Weeks higher rate SMP (90% of your average earnings).
- 33 Weeks lower rate SMP (**the lower** of flat rate SMP or 90% of your average earnings)
- Remaining 13 Weeks Unpaid

### OPTION C

**You are entitled to OMP only**

You qualify for 52 Weeks Maternity leave.

**Paid as:**

- 8 Weeks Full Pay
- 18 Weeks Half Pay
- Remaining 26 Weeks Unpaid.

### OPTION D

**You do not qualify for SMP or OMP.**

You qualify for 52 weeks unpaid Maternity leave,

Please send your completed application form and MAT B1 to HR Services.  
You will then be issued with a SMP 1 form to claim Maternity allowance from the DWP.

### **5.3 DEFERRING PAYMENTS**

Experience has shown that a number of applicants for maternity leave and pay would only wish to return to work should unforeseen circumstances arise. To help employees in this situation a “deferment” option exists. This means that your job will be kept open for you, but you will be paid as if you had left NHS 24. Then, if you decide to return to work, the additional NHS maternity payments which you are entitled to will be paid to you in a lump sum when you have completed the required three month employment period.

However, if you decide not to return to work, no overpayment has been made to you and no recovery of this sum will be initiated by NHS 24. If you wish to choose this option you should complete relevant section on the application form for not returning to work and select the option for your payments to be deferred. (See Appendix B)

### **5.4 CALCULATION OF PAY**

*Statutory Maternity Pay (SMP)*: the higher rate of SMP is 9/10ths of your average weekly earnings (see below for calculation). Lower rate SMP is a flat rate benefit, which is reviewed annually. As of 6 April 2006 SMP will be £108.85 per week or 90% of your weekly average earnings if this is less.

*NHS Pay*: for the purposes of NHS maternity pay, full pay is calculated on the basis of your average weekly earnings over the eight week period leading up to the last pay day before the end of the 15th week before the expected week of confinement. Your National Insurance contributions will be taken into account. Half pay is half the amount of full pay as calculated above. Any pay award received after the date your maternity pay is determined, but before the end of Ordinary Maternity Leave, should be reflected in payments made to you.

At no time can the combination of NHS pay and SMP pay exceed your normal average monthly pay.

### **5.5 PAYMENT ARRANGEMENTS**

All maternity pay is paid monthly, by credit transfer, and the pay slip will be sent to your home address.

Please note that being on Maternity Leave, paid or unpaid, does not change your incremental date. However, there is no entitlement to sick pay during paid or unpaid maternity leave.

## **5.6 SUPERANNUATION**

Whilst you are contributing to the NHS Superannuation Scheme the period of Ordinary Maternity Leave will count as pensionable service. However, any contributions due during the period of unpaid maternity leave will be discussed with you and agreed on your return to work. You should contact your Human Resource Department to discuss this further if you have any concerns.

## **5.7 REDUNDANCY**

Should your post become redundant during your maternity leave you will be entitled to the same rights as any other employee in this situation, regardless of the fact that you may be on paid or unpaid maternity leave.

## **5.8 STILL BIRTH**

In the event of a still birth after the start of the 24th week of pregnancy, you will be entitled to the same maternity pay and leave, if returning to work, as if the baby had lived. Prior to that date normal sick leave provisions will apply.

## **6. RETURNING TO WORK**

### **6.1 Notice of return to work**

Unless we are notified otherwise, we will expect you to return at the end of your additional maternity leave (52 weeks)

If you wish to return earlier than this you will need to provide us with 8 weeks notice in writing of the date you wish you to return. If this is not given we can postpone your return by seven days.

You **must** ensure that you take the compulsory two week leave period after the birth of your child.

If you decide that you do not wish to return to work at the end of your maternity leave (or, indeed, during it), you must give your manager or your Human Resource Department the appropriate contractual written notice that you intend to resign. The notice period does not have to coincide with the expiry of your maternity leave.

### **6.2 Hours on Return to Work**

#### **Ordinary Maternity Leave (OML)**

An employee who has notified her intention to return to work has the right to return to her job under her original contract, on no less favourable terms and conditions and with grade, pension and similar rights protected at the end of her Ordinary Maternity Leave. You may, however, return to work on any basis agreed with NHS 24, including part-time and job share. All requests will be carefully considered and not unreasonably refused, subject to the requirements of service provision.

#### **Additional Maternity Leave (AML)**

If you take AML you are entitled to return to your substantive post unless this is not reasonably practicable. In such cases you will be offered a suitable alternative. Your terms and conditions relating to remuneration for your substantive post will be no less favourable than if you had not been absent on leave, and your grade, pension and similar rights on return to work will be as if your service on return was continuous.

There is no statutory right to return from AML to new employment arrangements, i.e. part-time working arrangements, but all requests will be carefully considered and not unreasonably refused, subject to the requirements of service provision.

### **6.3 Risk Assessment on returning to Work**

You are required to have a risk assessment on returning to work, this will be carried out by your line manager or Health and Safety Advisor.

#### **6.4 Breastfeeding**

Reasonable requests for time off will be granted and access to facilities for the expressing and storage of breast milk will be provided. You should contact your manager or your Human Resource Department to discuss your requirements at least 3 weeks prior to your return to work, or the date from which you will require these facilities.

#### **6.5 Post-Natal Health Care**

Returning to work after having a baby can be very difficult. You may feel very tired if you are having sleepless nights and it can be an emotional strain leaving your baby with someone else all day long. You can contact our Employee Assistance Programme and Occupational Health Provider for support.

Mothers returning to work are entitled to paid time off for post-natal care, especially for treatment for arising out of complications of the pregnancy or birth.

#### **6.6 Annual Leave**

You should have taken all annual leave due to you before returning from your maternity leave. This should be fully discussed with your manager prior to commencement of maternity leave.

Remember that if, on your return to work, you decide to work fewer hours or days, this may affect your annual leave entitlement from the date that you return and for the remainder of the current leave year. It is important that you discuss this with your manager or Human Resource in more detail to clarify the implications of this before returning to work.

#### **6.7 Sick Pay**

- i) If you cannot return to work due to ill health on the date that you agreed as being your official date of return, normal sick pay arrangements will apply
- ii) If you cannot return to work due to ill health after the expiry of your full entitlement of maternity leave, normal sick pay arrangements will apply.
- iii) If you cannot return to work after your maternity leave for reasons of health and safety, you may be given alternative employment for a period of time or be medically suspended on full pay.

## **6.8 Failure to Return to Work**

In normal circumstances if you do not return to work within the specified time limit having said you will, or do not submit a copy of your letter of appointment to a new NHS employer to NHS 24 within 15 months of the date you began maternity leave, you must repay any NHS/Maternity pay you may have received on the basis that you were returning to work.

Please see the section on Deferring Payments on page 11

## **6.9 Leaving NHS 24**

If you do not plan to return to NHS 24 after the birth of your child you should complete the relevant part of the application form enclosed (see appendix B) with this pack and consult the section 5 regarding pay.

**GLOSSARY**

**Expected Week Of Confinement/Childbirth**

This is the week in which your baby is due.

**Lower Rate Statutory Maternity Pay**

This is paid for 33 weeks immediately following the 6 week period of Higher Rate SMP. This is either the current SMP flat rate or 90% of your average weekly earnings whichever is the lower.

**Higher Rate Statutory Maternity Pay**

This is paid during the first 6 weeks of your maternity leave and equates to 90% of your full pay.

**Maternity Allowance**

Where you are not eligible for SMP you may be eligible for a Maternity Allowance from the Department of Social Security. You must still apply for maternity leave in the normal way and fill in the appropriate application forms.

**Qualifying Week**

The qualifying week is the 15th week before the week in which the baby is due. If you are no longer employed during the qualifying week you will not be entitled to Statutory Maternity Pay or Leave.

**Working Families Tax Credit**

A leaflet giving further information on this is enclosed and further information can be obtained from the Inland Revenue's helpline on 0845-300-3900.



